

★ JAN 28 2020 ★

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK LONG ISLAND OFFICE

Cathy Merola

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

See Attached #1

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil
Rights

(Non-Prisoner Complaint)

Case No.

CV 20 491

(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

SEYBERT, J.

LOCKE, M. J.

RECEIVED

JAN 28 2020

EDNY PRO SE OFFICE

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in *forma pauperis*.

Attachment # 1

Defendants

DR. SHARON LOWE, DR. M. SHAROHA, MICHAEL ESANG MBBCh
DR. JACOB SPERBER, A. DALEO LPN, NASSAU HEALTH CARE CORPORATION
DBA NASSAU UNIVERSITY MEDICAL CENTER, aka NUHEALTH,

COMMISSIONER OF THE DEPARTMENT OF MENTAL HEALTH
OF COUNTY OF NASSAU, DIRECTOR OF COMMUNITY SERVICES
OF NASSAU COUNTY, NASSAU COUNTY DEPARTMENT OF MENTAL HEALTH,

PARAMEDIC REARDON, POLICE OFFICER RUSSELL, JOHN DOE
POLICE OFFICER, JOHN DOE LIEUTENANT POLICE OFFICER,
NASSAU COUNTY POLICE DEPARTMENT, NASSAU COUNTY,

JOHN AND JANE DOE 1-10

BELLMORE TOWING, KEVIN FRISOLONE, BELLMORE TOWING,
AAA, RICH DOE AKA REPRESENTATIVE OF AAA AND A-1 AUTO.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Cathy Merola
Street Address	40 Monroe St.
City and County	Massapequa Park
State and Zip Code	New York, 11762
Telephone Number	516-797-1383
E-mail Address	N/A

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Dr. Sharon Lowe
Job or Title (if known)	Individually and in Official Capacity C/O Nassau Health Care Corp. Legal Department
Street Address	C/O 2201 Hempstead Tpk 19 th Floor
City and County	East Meadow, Nassau County
State and Zip Code	New York, 11554
Telephone Number	(516) 572-0123
E-mail Address (if known)	

Defendant No. 2

Name

Dr. M. Sharoha

Job or Title
(if known)

Individually and in Official Capacity

Street Address

Same as Defendant #1

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Defendant No. 3

Name

Michael Esang

Job or Title
(if known)

Individually and Official Capacity

Street Address

Same as Defendant #1

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Defendant No. 4

Name

Dr. Jacob Sperber

Job or Title
(if known)

Individually and Official Capacity

Street Address

Same as Defendant #1

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Defendant No. 5

Name

A. Daleo LPN

Job or Title
(if known)

Individually and officially

Street Address

Same as Defendant #1

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Defendant No. 6

Name

Nassau Health Care Corporation
DBA Nassau University Medical Center
aka NU Health

Job or Title
(if known)

Street Address

Same as Defendant #1

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Defendant No. 7

Name

Nassau County

Job or Title
(if known)

Commissioner of The Department
of Mental Health

Street Address

Individually and in official capacity
Office of the County of Nassau Attorney

City and County

One West Street

State and Zip Code

Mineola, Nassau County

Telephone Number

New York 11501

E-mail Address
(if known)

(516) 571-3056

Defendant No. 8

Name

Job or Title
(if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Nassau County Director of Community Services
Individually and Officially
Same as Defendant #7

Defendant No. 9

Name

Job or Title
(if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Nassau County Paramedic Reardon
Officially and Individually
County of Nassau
Office of The Nassau County Attorney
One West Street
Mineola, Nassau
New York, 11501
Same as Defendant #7

Defendant No. 10

Name

Job or Title
(if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Police Officer Russell
Individually & Officially

Same as Defendant #7

Defendant No. 11

Name

Bellmore Towing

Job or Title

(if known)

Street Address

2720 Merrick Road

City and County

Bellmore, Nassau County

State and Zip Code

New York 11710

Telephone Number

(516) 781-0200

E-mail Address

(if known)

Defendant No. 12

Name

A-1 Auto

Job or Title

(if known)

Street Address

Same as Defendant #11

City and County

State and Zip Code

Telephone Number

E-mail Address

(if known)

Defendant No. 13

Name

Kevin Frisolone

Job or Title

(if known)

Street Address

Owner and/or operator of
Bellmore Towing and/or A-1 Auto
Suing in Individual Capacity

City and County

State and Zip Code

Same as Defendant #11

Telephone Number

E-mail Address

(if known)

Defendant No. 14

Name

Automobile Club of America
aka AAA aka "Triple A"

Job or Title
(if known)

Street Address

1140 Franklin Ave

City and County

Garden City, Nassau County

State and Zip Code

New York, 11530

Telephone Number

E-mail Address
(if known)

Defendant No. 15

Name

Rich Doe

Job or Title
(if known)

Individual and Official
Representative of AAA

Street Address

City and County

Same as Defendant #14

State and Zip Code

Telephone Number

E-mail Address
(if known)

Defendant No. 46 → 20

Jane and John Does

Name

Job or Title
(if known)

Employed by Nassau County
Police Department as EMT's
Paramedics, Dispatchers, and on Police Officers

Street Address

City and County

State and Zip Code

Same as Defendant
5 7-10

Telephone Number

E-mail Address
(if known)

Defendant No. 21-25 Jane and John Does

Name

Job or Title
(if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Employees of Nassau University
Medical Center medical and
security personnel

Same as Defendants
#s 1-6

~~Defendant No. 3~~

Name

Job or Title
(if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

~~Defendant No. 4~~

Name

Job or Title
(if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☒ State or local officials (a § 1983 claim) and individuals acting in concert with officials
☐ Federal officials (a *Bivens* claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Federal Constitutional Right of liberty and due process. Right Not to be falsely accused, assaulted, and deprived of liberty without due process.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Hospital & employees
Police → Violated State Mental Health Law and right not to be assaulted. ^{not to}
~~Violated my right not to be assaulted, abused, held~~ ^{without}
Private individuals acted in concert with ^{probable} ~~the~~ cause.
police to commit me without any basis and
did not follow state law procedure.

III. Statement of Claim

(See Attachment #2)

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

B. What date and approximate time did the events giving rise to your claim(s) occur?

C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

Attachment #2

1. The name and post office address of the Claimant and Claimant's attorney:

Pro se CLAIMANT
CATHY MEROLA
40 Monroe Street
Massapequa Park, New York 11762

2. The nature of the claims:

Claimant brings claims against the above-listed respondents due to their actions which resulted in claimant being unlawfully detained and seized and transported to Nassau county medical center where she was involuntarily committed which constituted a false imprisonment until discharge. Claimant further brings claims of malpractice, slander, libel, abuse of process, violation of the patient's right to confidentiality and privacy, malicious prosecution, falsification of documents and data, intentional infliction of emotional distress, two claims of assault against the Nassau County Police and two counts of assault against Nassau County Medical Center and the personnel involved, claims for supervisory liability and respondent superior against Nassau County and the Nassau County Police Department for the acts of its agents and employees and against Nassau County Medical Center for supervisory liability and respondent superior for the acts of its agents.

3. The time when, place where, and manner in which the claim arose:

On January 27, 2017, at approximately 11:30 AM, the claimant was at the business location of Bellmore Towing located at the corner of Bedford Avenue and Merrick Road in Bellmore. The claimant was waiting outside for the AAA representative, Rich Doe, to return outside with information about work done on the claimants car, by Bellmore Towing. Earlier, Kevin Doe, owner of Bellmore towing had been nasty and insulting and made derogatory and personal remarks which were verbally abusive so the claimant did not want to go near Kevin or have him work on her car to fix a bad repair job he had done. Rich, according to AAA, was supposed to facilitate my getting this information.

While claimant was outside on the telephone, Police Officer #1 snuck up behind the claimant and made her jump by intentionally startle and scaring her, loudly saying "what's going on here"? The he says, "Oh, its you," when I turned around. Claimant responded by saying, "is this what you get paid \$160,000.00 to do?" Officer #1 said I don't make 160 K." pause "It doesn't matter anyway. " Officer #1 then told me to leave. His tone was harsh and I felt like a criminal and people were watching and I felt embarrassed humiliated. I immediately got into my car, (in the parking lot perpendicular to Merrick Road, facing southward) but the car did not shift well into reverse and I did not want to damage it. Bellmore Towing had overfilled the clutch fluid which was possibly the problem. No one would help push the car back a few feet to turn the car. I started to move the car backwards, but without warning or reason, officer #1 stopped the car by throwing himself on the front of the car. This caused the car to stop abruptly and hurt my back. I hollered in pain and swung around and said, "why did you do

that?" He said I was going to hit something which was completely untrue. Besides, there were officers behind me that did not seem concerned. The officer seemed amused with himself and I felt like he was making a spectacle of me. police officer #1 would not let me leave to go someplace across street where it would be warm and quiet for me to call a tow and ordered me to call from my car. Police began to mock and humiliate and laugh/smirk at the claimant while I stayed in my car calling AAA for a tow. After refusing to want to make a report about my back, the police were poking fun at me hollering while I was trying to hear on the phone. Meanwhile, it was disruptive to try to hear AAA who I had a towing contract with. AAA kept putting me on hold at one point saying that they had to get a release from Bellmore towing since it was a AAA shop. So I waited. The police were mocking me saying "AAA isn't going to tow you" over and over, in a teasing tone. It was emotionally abusive and was scary as the police were escalating and I feared for how far they would go. I continued to try to get an answer from AAA who I had a towing contract with, but was repeatedly put on hold

After I told Police officer #1 that I did not want to stay to make a report about my back and that I just wanted to go home, he said he was calling someone because I was acting "irrationally". It was like being an animal entertaining the spectators in a circus taunted for the entertainment and the police officers and the people at Bellmore Towing. I was not allowed to leave, yet was told to move my car and was doing my best to facilitate that happening.

At one point I asked to speak to a sergeant and the officers laughed and mocked saying what do you want a sergeant for, when you have a lieutenant right here. (officer #3), But the lieutenant did not try to speak with me. My car door was suddenly opened and the officers refused to close it and just held it open for no apparent reason and refused to close it. It became more difficult to hear on my phone. Also, I was scared because it did not make sense that they had my door open, but were not asking anything of me. When the officers did ask me to get out of the car, I stopped waiting for AAA (was on hold and calls kept getting dropped), I got out and then was ordered into an ambulance and to give the officer my keys which I did. Officer #2 rode in the ambulance to NUMC.

In the ambulance, during the ride over to Nassau County Medical Center Officer #2 taunted me by saying repeatedly "How come nobody wants to talk to you" How come no one wants to answer your calls? How come?" "Why won't anyone talk to you" He did this over and over. The other man in the ambulance, a EMT, sat mute and typed on his computer. I just wanted to cry but kept silent.

At NCMC, officer #1 and #2` escorted me in and, while sitting in a chair, (officer #2 on my right, without warning, suddenly picked up my chair with me in it and dropped me. He hurt my back again. What he did terrified me. Now I had been assaulted twice by the police. I was forced to walk in pain to the other area of the ED because the NCMC only had a wheelchair without footrests to provide for me.

I needed to get home for my sick dog who would die without care and medicing and hydration. This was weighing on me, plus being in the cold and emotionally and physically

abused and taken into custody for no reason and certainly without probable cause was a nightmare and upsetting .

In the ED, I was put into a room so small that the two police officers (standing) and the nurse and myself sitting, barely fit. The nurse put a big bag on my lap and told me to take off my fleece and shoes and put them into the bag. As I was scared and afraid , I hesitated and the nurse then shoved me with her full body while the two officers looked on. The police just stared down at me while this happened. I did not see the police after that.

I told the staff at NCMC ED that I need to make calls to reach someone to go care for my sick dogs, No one was interested in why I was upset and, based on the rough behavior of the nurse, I was petrified. I insisted upon being able to use the phone to reach support , legal help and to find a sitter for my dog. I called my therapist and she was as mystified as I was. She and I understood from the staff that the Dr. would speak to both of us. (the Dr. never called my therapist before admitting me and, in fact did not call her until NINE hours after I had arrived!

I feared for my dog suffering at home and what would happen if I was not able to take care of them. I was left to sit in a small room with numerous other "patients" and no one was telling me what the time frame for anything would be. I was cold and had not eaten for a day now and was not even offered something to drink or a quiet place to be with my thoughts. It was as if I was in prison, not a health facility. As time went on and it had been coming on six hours that I had left home, I started crying because my dog could not recover if she did not get care soon. I was forcefully medicated against my will simply because I was crying for my dog. Further, the nurse lied about what the medicine was and did not offer alternatives. She threw me down face first on a bed, pulled my pants down and jabbed me. I turned around to see two large men leaving the room and the door had been wide open the whole time for anyone to have seen. (I believe this is the same person who shoved me earlier). This nurse now hops up on the bed next to me with a big smile while touching me and says now, why don't you trust me?"

I was detained and falsely imprisoned while in the ED . There were no legally sufficient notice or papers to hold me there. I was further falsely imprisoned as the purported application and certifications to hold me and admit me were not done pursuant to law. For example, procedural defects required by law include but are not limited to the application not applying for anything about me, but left blank; the designee who signed the application was not qualified as he is on the staff of the hospital I was going into; the resident Michael Esang was not a staff physician qualified to approve the application. I continued to try to get an answer from AAA who I had a towing contract with, but was repeatedly put on hold on, Esang approved the application based upon a "Observation" of the designee when the Designee says he examined me. Further and most disturbing is that I was NEVER given Notice or a copy of the Notice pursuant to as required by law. The application by the designee under does not direct anything to be done with me. Further, the "designee", is a staff of the hospital that admitted me which disqualifies him. Esang is not a staff physician entitle to approve of the application. Further Esang states his certification is based on the designees "Certificate of observation",

when, in fact, the designee did a "certification upon examination". To date, the ER records are devoid of any information about the designees contact with or observance of the claimant.

Most egregiously, Esang falsely swears to providing claimant a copy of the notice as required by law which states the basis and under what law the claimant is being held. On numerous occasions subsequently, the claimant requested this information and was denied.

The claimant was held and admitted despite there being no evidence of dangerousness to herself or others. Not only was the claimant not dangerous, but the records themselves show that the Drs. Did not make any true finding of this and conducted medically substandard evaluation, intentionally and negligently misrepresented facts/information. The ED staff did not seek to find alternatives to admission

The claimant was denied medicine cytomel which is necessary for sustaining life functions including physical and mental which she had been taking, and, instead was prescribed inadequate doses of a generic synthroid. I suffered greatly because the abrupt change was drastic for my body putting me into hypothyroidism.

The 72 hour certificate of Sharon Lowe continued my illegal imprisonment base on illegally insufficient documents. False documents, lack of sufficient proof, if any of dangerousness. Dr. Lowe's "72 hour certificate" Did not find any dangerousness exhibited since being admitted and it is negligence and violates standard of care to find otherwise. Further, Dr. Lowe, did not try to obtain other information available from my therapist or discuss alternatives to hospitalization.

I suffered from hypothyroidism due to the malpractice of the doctors who refused to provide me with thyroid medication and against my own doctors instruction to them. I further suffered from a rash which became increasingly worse and a urinary infection was ignored.

During my stay, my good name was slandered by the staff and by Michael Esang and Dr. Lowe. Specifically including but not limited to claiming I lacked the capacity to make medical decisions for myself. Dr. Lowe also falsely wrote in my medical record that I made racial remarks and name called the staff.

Dr. Lowe falsely hollered out twice that I was verbally abusive and harassing her which was blatantly untrue. I was punished for being assertive in trying to get what I medically and legally both needed and was entitled to. the staff was hostile and even fought loudly among themselves waking up patients early in the morning.

My dog had to be put down four days after being brought to NUMC because she could not receive the amount of care she needed. When I left my dogs on Friday January 27, 2017 she was walking without assistance and eating well. Although she was old and had medical issues,

she had a good quality of life . My heart is broken for what happened to my dogs. My worry and grief for my dogs was wrongfully caused by thye respondents and the respondents then failed to r purposely misdiagnosed grief as a mental illness. Further , the mental professionals commit malpractice by labeling spousal abuse and police abuse as "paranoia" without further inquiry.

The claimant's other dog was and still is traumatized by this and it is very upsetting for me. my dogs had been a great source of emotional support and comfort for me. I did not even get a chance to say goodbye .

While at the hospital, my privacy and confidentiality of medical things was blatantly disregarded. My last name was hollered down the psych hallway by staff; the doctors spoke freely in the hallway without discretion, nurses loudly discussed medical symptoms and personal matters for all to hear. I was also privy to others private medical matters.

My false imprisonment continued until I was discharged on February 7, 2017.

There was no basis to conclude I was dangerous and, in fact, no facts were stated to support committing me involuntarily for this reason. Further, the police and doctors and hospital staff caused whatever trauma, grief and anxiety they perceived as a "mental illness"

The medical record is replete with outright fabrications and misrepresentations. But even the record, as is, does not support a legal involuntary commitment.

4. The items of damages and injuries are:

Claimant suffers and continues to suffer from severe emotional distress and anxiety, humiliation, permanent damage to personal and professional reputation, lost employment opportunities, damage due to libel and slander, malpractice, false imprisonment, physical pain and suffering, medical costs, moving costs and losses crested thereto, cost of towing and to impound car, cost of pet sitters and to put dog to sleep and to board second dog.

Claimant's reputation is permanently damaged. Claimant now has a police record and a psychiatric record. My return to a career as an attorney which I was counting on after not pursuing a career due to marriage is in jeopardy as this has tarnished my reputation. I assurance, and confidence has been undermined. Further, my activism has been stifled as I am afraid to come into contact with the police officers, who taunted, harassed mocked, humiliated and falsely imprisoned for fear they will do it again. I also suffer from the stigma as I had to inform my neighbors and friends and the veterinary office in order to get assistance to take care of my house and dogs while I was in the hospital.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I was injured both physically & emotionally. Physically my back and hip. I did not receive additional treatment. Emotionally, I was traumatised and not only did I need treatment, but it destroyed treatment I had been working on for two years. I incurred bills and my dog had to be put to sleep.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am seeking money damages and for my medical record to be corrected. The money damages are for my economic loss of \$1,000.00; my emotional damages (anxiety but listed) and for money for therapy. I am also seeking punitive damages in the amount of \$50,000.00 against each and every defendant.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Jan. 28, 2020

Signature of Plaintiff Cathy Merola

Printed Name of Plaintiff Cathy Merola